

MICHIGAN DOMESTIC VIOLENCE PREVENTION AND TREATMENT BOARD

MEETING MINUTES

December 5, 2005

***** APPROVED – January 13, 2006 *****

Members Present:

Princella Graham
Honorable Amy Krause
Mary Beth Kur
Honorable Nathaniel C. Perry, III
Lore Rogers

Staff Present:

Michelle Bynum
Debi Cain, Executive Director
Celestine Colton
Debbie Felder-Smith
Carol Hackett Garagiola
Julie Giddings
Penny Hackett-Evans
Shelia Hankins

Sarah Heuser
Josie Jubb
Mary Lovik
Barb Mills
Karen Porter
Stephanie Steinert-Fulk
Joyce Wright

Guests:

Kathy Hagenian, MCADSV
Mary Keefe, MCADSV
Emma Peterson, YWCA Interim House, Detroit
Tom Robertson, PACC and PAAM
Jody Smith, RAVE, St. Johns
Sylvia Terry-Fleming, YWCA Interim House, Detroit

Welcome and Introductions

Chair A. Krause convened the December 5, 2005 Michigan Domestic Violence Prevention and Treatment Board (MDVPTB) meeting at the Kellogg Center, East Lansing, MI, at 10:00 a.m. Introductions were made and a welcome extended to guests.

BOARD CONSENT

Review of agenda, approval of September 27, 2005 Board meeting minutes.

MOTION: Moved by M. Beth Kur to approve the December 5, 2005 agenda and approve the September 27, 2005 meeting minutes. Seconded by P. Graham. Motion carried.

CHAIR'S REPORT

Letters of appreciation have been sent out to former Board members Honorable Edward Sosnick and Shirley

Mann Gray. There is still one remaining vacancy on the Board.

A.Krause and D. Cain reported on a new interpretation of the STOP grant regulations by the Office on Violence Against Women (OVW). Michigan currently allows local consortia of service providers, law enforcement agencies, prosecutors, and courts to collectively determine how STOP grant funding will be used at the local level. This type of decision-making would no longer be feasible under the new interpretation, which requires funding to be “siloe” by profession. Moreover, the funding that Michigan currently uses to fund projects by the state STOP partner agencies would have to be redirected to the 15% discretionary dollars instead of for provision of direct services. MDVPTB is requesting the Michigan STOP partner agencies join in a request to OVW to allow Michigan to continue current practices, or, in the alternative, to extend the time in which the state must conform to the new interpretation. MDVPTB believes our current STOP distribution plan is highly effective and a model way to operationalize the goals of STOP funding.

Performance Evaluation for Executive Director D. Cain is due by January 23, 2005 to Chair A. Krause.

The MDVPTB Board meeting schedule has been set for 2006.

In honor of Domestic Violence Awareness Month, MDVPTB hosted a reception for legislators, their staff members, and other government officials and invited guests at the State Capitol Rotunda on Oct. 18. Chair A. Krause felt that it was very well attended; MCOLES, MSP, PAAM, and Resource Center representatives were on hand to answer questions and distribute informational materials as well as MDVPTB staff.

POLICY REVIEW

The Governance Process and Policy Review: Governance Commitment, Chairperson’s Role and Monitoring Executive Performance.

The Board reviewed the policies.

MOTION: Moved by M. Beth Kur to change The Governance Process, Governance Commitment language as follows: “b) encourage activities, conditions and decisions that fulfill the Boards values and vision. In fulfillment of this charge, the board is committed to rigorous, continual improvement of its capability to define values and vision.” Seconded by P. Graham. Motion carried.

MONITORING TO ASSURE ORGANIZATIONAL PERFORMANCE

Executive Limitations: Treatment of Staff, Compensation and Benefits, Financial Condition, Assurance of Quality, and Contracting Process.

The Board reviewed and approved D. Cain’s Executive Limitations reports.

MOTION: Moved by M. Beth Kur to accept Treatment of Staff, Compensation and Benefits, Financial Condition, Assurance of Quality, and Contracting Process. Seconded by N. Perry. Motion carried.

EXECUTIVE DIRECTOR’S REPORT – GENERAL OVERVIEW OF WORK TO DATE

Updates

D. Cain reported that MDVPTB received HHS grant funding to assist children exposed to domestic violence as 1 of 9 pilot projects in the country. In collaboration with two MDVPTB-funded local domestic violence service provider agencies and a Project Steering Committee, MDVPTB will implement a three-year pilot project to provide children's counseling and specifically tailored services to address the needs of individual children. These projects will be implemented in 2 communities, St. Clair and Muskegon Counties, Michigan. S. Heuser is the lead staff person working on this grant.

MDVPTB was awarded a two-year grant totaling \$899,976 to continue services under the Rural Domestic Violence and Child Victimization Grant. Ten local domestic violence programs will use the funding to serve survivors of domestic violence and their children in 13 rural counties – Alger, Antrim, Arenac, Baraga, Benzie, Keweenaw, Lake, Missaukee, Montmorency, Oceana, Ogemaw, Ontonagon and Oscoda. The board will collaborate with MCADSV to complement its projects and provide training and technical assistance to rural programs and their community partners on issues related to domestic violence and child welfare.

The Grants to Encourage Arrest Program will continue for two more years with expanded activities. Through this grant, the board partners with MCADSV, Michigan State Police, the Prosecuting Attorneys' Association of Michigan, Michigan Attorney General's Office and local partners to increase victim safety and batterer accountability. Grant funds currently support two specialized prosecutors hired by the state Attorney General's office, who assist county prosecutors in: prosecuting domestic violence cases; increasing the coordination between local prosecutors, state and federal law enforcement agencies; and improving the ability of local law enforcement to enforce personal protection orders and hold perpetrators accountable. Participating counties are: Antrim, Charlevoix, Cheboygan, Emmet, Grand Traverse, Kalkaska, Leelanau and Otsego counties. Under the renewed grant, a third specialized prosecutor can be hired, serving Kalkaska, Roscommon, and Otsego counties. C. Hackett Garagiola, the lead staff person working on this grant, was commended for her efforts.

Funding from the Grants to Encourage Arrests Program will also support migration of the PPO database from the current LEIN system to a web-based platform. MDVPTB staff members are working with the Michigan State Police and other interested state partners to make sure all safety concerns are addressed.

The Michigan State Housing Development Authority (MSHDA) has allocated four million dollars for the development of approximately 40 units of permanent supportive housing for victims of domestic violence. In this initiative, MSHDA has partnered with the MDVPTB, MCADSV, and Department of Human Services (DHS). An RFP is anticipated from MSHDA in January. Through this initiative we hope to build upon the strength of existing local partnerships in order to create permanent solutions for victims of domestic violence.

In addition to the \$3 million in TANF funding MDVPTB currently allocates for Transitional Supportive Housing in Michigan, additional federal funding has been obtained by 6 Michigan programs. MDVPTB worked with Grand Rapids, Holland, and Alpena regarding providing TSH units for elder intimate partner violence survivors. Grand Rapids will also provide units for migrant survivors and Holland will provide units for disabled survivors.

MDVPTB received a grant from Verizon to update the curriculum on Dating Violence for schools. Verizon is interested in funding this project in the long term; the next phase will involve translating the curriculum into other languages.

Board members will receive a report from an upcoming audit for fiscal years 02 through 04 that will show \$3.9 million in questioned costs for the STOP grant. These costs result from inconsistencies in DHS recording between the federal and state accounting periods. Steps have been taken to address the problems cited.

Staff had the opportunity to attend the national BISC-MI conference which the Board partially funded. The conference was very well attended and BISC-MI has extended their gratitude to MDVPTB for our support.

Legislative Report

D. Cain gave an overview of legislation to be reviewed and discussed.

C. Hackett Garagiola reported on HB 5043 and SB 885, amending MCL 750.540. This statute currently prohibits malicious cutting, breaking of telephone lines, or maliciously obstructing the delivery of any authorized message through telephone lines. The amendments would update the statute to address interference with any medium of electronic communications (e.g. cell phone, blackberries, computers).

MOTION: Moved by M. Beth Kur to support SB 885 in concept only and to support HB 5043 with changes:

Add to HB 5043 exception re: damaging/interfering with one's own telecommunications device: ...or to obtain victim assistance in context of domestic violence (not just "to report" domestic violence), or to obtain medical assistance in any context. Incorporate some of the language and concepts regarding this issue from SB 885.

Add to the HB 5043 exception, language that addresses the use of a telecommunications device to obtain assistance when an individual fears for personal safety (e.g. in context sexual assault, when sexual assault has not yet occurred.)

Add enhanced penalty from SB 885 (e.g. 4 years/\$5,000) if incident to be reported, or for which assistance is sought, involves injury or death.

Seconded by P. Graham. Motion carried.

M. Lovik gave an overview of SB 808, a bill intended to assist domestic violence victims whose obligations under an existing lease make it financially difficult for them to enter into a second lease for a new, safer residence. It provides: "A rental agreement shall provide that a tenant who is a victim of domestic assault while that person is a tenant may terminate a lease effective upon submittal of written notice of termination and written evidence that the tenant is a victim of domestic assault." Regarding the nature of the written evidence of "domestic assault," the bill states: "Provision of a police report that indicates that the tenant was a victim of domestic violence or a valid personal protection order issued by a court of competent jurisdiction shall satisfy the requirement ... that the tenant provide written evidence that he or she is a victim of domestic assault." In concept, this bill offers an important form of support for survivors of domestic violence who seek safer housing. The restrictions in this well-intentioned bill appear to address legitimate landlord concerns that tenants might abuse this remedy by invoking it in situations where domestic violence is not actually present. However, in addressing landlord concerns, the bill leaves many survivors domestic violence, sexual assault, and stalking without relief.

Motion: Moved by P. Graham to support in concept, and authorize staff to discuss the bill with the sponsor about changes. Consider allowing written evidence to include a written statement by a credible third party with knowledge of the violence. Consider permitting the lease to be terminated in the landlord's discretion upon the tenant's verbal request that asserts domestic violence; if the landlord requests written documentation, then the landlord must terminate the lease upon receipt of the written documentation. Seconded by L. Rogers. Motion Carried.

M. Lovik reported on HB 5267, mandating orders for joint custody except in certain limited situations. No vote was taken on this bill in light of the Board's past opposition to similar bills in other legislative sessions that would have introduced a presumption into the Child Custody Act favoring joint custody.

M. Lovik reported on past MDVPTB staff research on issues of mandatory medical reporting. C. Hackett Garagiola reported on SB 263, S-6 substitute, which would create a domestic violence "hearsay" exception that includes statements made to a law enforcement officer, or to a firefighter, a paramedic, or an emergency medical technician who assisted the person making the statement at or near the time of infliction of physical injury or threat of physical injury. The Board decided to convene a meeting on January 13, 2006 to consider the issues raised by the inclusion of statements to medical first responders in the categories of statements excepted from the hearsay rule under the bill.

C. Hackett Garagiola provided information on proposed amendments to the laws governing criminal sexual conduct (CSC) that would increase penalties for specified CSC crimes involving minor victims and/or repeat sex offenders. HB 5421 provides that the following crimes shall be added to first-degree CSC and shall be punishable by imprisonment for *life or any term of years, but not less than 25 years*, if the perpetrator is 17 years of age or older and the victim is under age 13:

- i) the actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to believe it is a weapon; OR
- ii) the actor used force or coercion.

HB 5421 also provides that for any conviction for CSC first degree the court may order a term of imprisonment imposed for the CSC first degree to be served *consecutively* to any term of imprisonment imposed for any other criminal offense arising from the same transaction.

HB 5422 Amends the Corrections Code to provide that a person who is convicted of the crimes defined in HB 5421 is not eligible for parole until the prisoner has served *25 years* of the sentence imposed, AND if parole is granted for that prisoner, *the parole shall be for not less than 10 years*.

It was noted that in May, 2005 the Board adopted the following general principle, which is applicable to these bills/proposals:

"Consistent with its work to prevent occurrence of sexual violence in Michigan, MDVPTB supports in concept legislative action to protect minors from sex offenders. The Board is cognizant of the need to protect minors from sex offenders who may be strangers, and also recognizes that the majority of child victims of sexual assault are assaulted by sex offenders who are family members, friends, or acquaintances."

Motion: Moved by L. Rogers to support the foregoing bills in concept only, consistent with the May, 2005 general principle. The following questions need to be addressed regarding these bills:

i) What need is there for research, training and standards concerning promising practices/programs that focus on victim safety in sex offender monitoring and treatment/rehabilitation?

ii) Is there a need for life sentences without the possibility of parole for adult sex offenders who prey upon children at all, or under specified circumstance, i.e., is there a need to ensure through sentencing that some specified sex offenders never have access to children?

iii) What, if any, specific aggravating circumstances in sex offenses committed against child or adult victims should involve a life-without-parole sentence?

iv) Need for more substantial sentences/minimum sentences for repeat sex offenders?

v) Is there a need for sentences for some CSC crimes to be served consecutively to sentences imposed for any other criminal offense arising from the same transaction?

vi) To what extent is there a need for judicial discretion in CSC sentencing?

Seconded by P. Graham. Motion carried.

C. Hackett Garagiola gave an overview of a CSC Misdemeanor Proposal. Current CSC law criminalizes as CSC 3rd degree (15-year felony), sexual penetration “with another person if...that other person is at least 13 years of age and under 16 years of age” (i.e. 13, 14, and 15-year olds). MCL 750.520d. MDVPTB staff are aware of discussion about creating a one-year misdemeanor CSC crime for “consensual” sexual penetration with a 13, 14, or 15-year old if the actor/other participant is no more than 3 years older than the 13, 14, or 15-year old, and if there are no other aggravating factors such as force or coercion. While no legislation has been introduced at this time, MDVPTB may wish to be prepared with a position or general principle concerning this matter, if and when legislation is introduced.

M. Lovik gave information about SB 892-894, HB 5438-46 (welfare reform packages). MDVPTB staff members have not had the opportunity to assess the effects of these bills on survivors of domestic and sexual violence in any detail. The Board’s general principle adopted May 20, 2005 was noted:

"Recognizing that batterers often use economic means as a mechanism of control over their victims, survivors of domestic and sexual violence and their children need adequate economic resources and economic stability in order to achieve safety and autonomy. Accordingly, the MDVPTB supports legislation that removes obstacles survivors face as they seek to achieve economic independence."

Moved by P. Graham to authorize staff to communicate with the DHS legislative liaison and with sponsors of the bills to address any identified concerns. Seconded by L. Rogers. Motion Carried

Chair A. Krause discussed HB 5326, a bill to require the Governor to appoint MDVPTB members from specified geographic areas within the state. It was noted that the Board has not experienced problems due to the geographic location of its members, and that there is currently a vacancy on the Board. Moreover, 3 of the 4 geographic regions listed in the bill are already represented on the current Board. Staff members were instructed to communicate these facts to the DHS legislative liaison.

PUBLIC COMMENT

Kathy Hagenian, MCADSV, would like to thank Chair A. Krause for setting the tone in openness and welcoming the input of guests. Ms. Hagenian would also like to extend a welcome to the new board members.

Princella Graham would like to thank everyone for the opportunity to be on this Board. She was impressed with the caliber of staff and board members and is looking forward to working with them.

Lore Rogers expressed appreciation that representatives from PAAM (Prosecuting Attorneys Association of Michigan) are working so hard to hear survivor concerns with the criminal justice response to domestic violence.

PROCESS EVALUATION

None.

ADJOURNMENT

The meeting ended at 2:45 p.m.

MOTION: Moved by L. Rogers to adjourn the meeting. Seconded by P. Graham. Motion carried.

Respectfully submitted,
Josie Jubb